

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 16

Bill No. 69-11

Mr. John Olszewski, Sr., Chairman
By Request of County Executive

By the County Council, October 3, 2011

A BILL
ENTITLED

AN ORDINANCE approving the execution and delivery by Baltimore County, Maryland (the "County") of a conditional purchase agreement (the "Conditional Purchase Agreement"), in an amount not to exceed \$25,000,000 in order to finance the costs of an upgrade to or replacement of an existing transfer station and the procurement and installation of a single stream recyclables processing system within an existing commercial material recovery facility and material recycling facility, in each case located at the Texas Acceptance Facility in Cockeysville, Maryland; providing that the County's obligation to make purchase installment payments under the Conditional Purchase Agreement shall be subject to annual appropriation by the County Council and shall not constitute indebtedness of the County; and generally providing for other matters related to the execution and delivery of the Conditional Purchase Agreement by the County.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

FOR the purpose of authorizing and empowering Baltimore County, Maryland (the "County") to finance the costs of an upgrade to or replacement of an existing transfer station and the procurement and installation of a single stream recyclables processing system (the "Facilities") within an existing commercial material recovery facility and material recycling facility, in each case located at the Texas Acceptance Facility in Cockeysville, Maryland, by entering into a conditional purchase agreement (the "Conditional Purchase Agreement") and selling certificates of participation in purchase installment payments under the Conditional Purchase Agreement (the "Certificates"); authorizing the Project (as defined herein) in order to provide improved and continued public service to the citizens of the County; and modifying the authorization set forth in Resolution No. 114-11 scheduled for vote by the County Council on October 3, 2011 (the "Resolution"), which authorized the financing of the acquisition of equipment to be used in connection with the Facilities (the "Equipment," and together with the Facilities, collectively, the "Project").

BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
MARYLAND:

1 SECTION 1. The County is hereby authorized to provide for the financing of the acquisition
2 and construction of the Project for the use and benefit of the County by the execution and delivery
3 of the Conditional Purchase Agreement in an amount not to exceed \$25,000,000 and the sale of the
4 Certificates. The execution and delivery by the County Executive or the County Administrative
5 Officer of the Conditional Purchase Agreement in an amount not to exceed \$25,000,000, the sale of
6 the Certificates, and the execution and delivery by any other officers, employees or agents of the
7 County of all other related documents necessary to consummate the transactions contemplated therein

1 and thereby is hereby approved. The Conditional Purchase Agreement may be executed and delivered
2 in order to provide funds sufficient to finance all or a portion of the costs of the Project, to fund a
3 debt service reserve fund, if any, and any other appropriate reserve funds created in connection with
4 the Certificates, to fund interest on the Conditional Purchase Agreement and any Certificates and to
5 pay any and all costs of issuance of such Certificates.

6 SECTION 2. The County's obligation to make the purchase installment payments under the
7 Conditional Purchase Agreement shall be subject to annual appropriation by the County Council. The
8 Conditional Purchase Agreement shall not constitute indebtedness of the County under the
9 Constitution and laws of Maryland, the County Charter (including, without limitation, Article VII
10 thereof) and the public local laws of the County or for any other purpose.

11 SECTION 3. The Certificates may be sold to one or more investors in a negotiated (private)
12 sale or at public, competitive sale in such manner and in accordance with such procedures as the
13 County Executive or County Administrative Officer shall deem appropriate; provided, however, with
14 regard to a public sale, such procedures shall be substantially similar to the procedures for public sale
15 with competitive bidding normally utilized by the County in connection with the sale of its general
16 obligation bonds, subject to any limitations imposed by the County Charter or other applicable law.
17 The Certificates may be sold for a price at, above or below par, plus accrued interest to the date of
18 delivery. The proceeds of the sale of the Certificates, including any premium paid for such
19 Certificates in excess of the face amount thereof, together with investment earnings on such proceeds
20 and premium, shall be applied to pay all or a portion of the costs of the Project, to fund a debt service
21 reserve fund, if any, and any other appropriate reserve funds created in connection with the
22 Certificates, to fund interest on the Conditional Purchase Agreement and any Certificates and to pay

1 any and all costs of issuance of the Certificates, all as may be further specified and provided in the
2 Conditional Purchase Agreement and other related documents necessary to consummate the
3 transactions contemplated therein and approved pursuant to this Ordinance. The Conditional
4 Purchase Agreement and the Certificates are hereby specifically exempted from the provisions of
5 Sections 10 and 11 of Article 31 of the Annotated Code of Maryland (2010 Replacement Volume),
6 as amended.

7 SECTION 4. Authority is hereby conferred in the County Executive and the County
8 Administrative Officer to take any of the following actions and make any of the following
9 commitments on behalf of the County:

10 (a) to approve, for and on behalf of the County, the form, tenor, terms and
11 conditions of, and provisions for the execution and delivery of, the Conditional Purchase
12 Agreement;

13 (b) to sell the Conditional Purchase Agreement and any Certificates upon such
14 terms he deems favorable under the existing market conditions to financial institutions or
15 other investors which, in his judgment, offer to purchase such instruments on terms he deems
16 favorable to the County under the existing market conditions;

17 (c) to execute and deliver, as a binding and enforceable obligation of the County,
18 an underwriting or purchase agreement for the Conditional Purchase Agreement and any
19 Certificates;

20 (d) in the event that the Conditional Purchase Agreement or any Certificates are
21 sold by soliciting competitive bids at public sale, to determine the date, time and place when

1 and where proposals for the purchase of such instruments will be received, to publish and
2 otherwise distribute a suitable notice of sale and to award any such instruments for which a
3 legally sufficient proposal has been received to the best bidder therefor;

4 (e) to appoint a bank having trust powers, or a trust company, as trustee, escrow
5 agent, paying agent or registrar in connection with such Conditional Purchase Agreement or
6 any Certificates, notwithstanding the fact that such bank or trust company may have neither
7 its principal office nor any branch office within the County or the State of Maryland, such
8 authority to include the power to agree with respect to the compensation of such trustee,
9 escrow agent, paying agent or registrar for its services;

10 (f) to arrange for the preparation and distribution of an appropriate offering
11 circular or official statement, including a preliminary official circular or preliminary official
12 statement, with respect to the sale of any instruments hereby authorized;

13 (g) to authorize and approve, for and on behalf of the County, the form and
14 contents of, and provisions for the execution and delivery of, a trust agreement or escrow
15 agreement and any additional documents (including without limitation ground leases, leases,
16 mortgages or deeds of trust) that the County Executive or County Administrative Officer may
17 deem necessary or desirable, to provide security for payment of the Certificates or otherwise,
18 in connection with the acquisition and construction of the Project and the execution, sale and
19 delivery of the Conditional Purchase Agreement; and

20 (h) to prescribe, determine, specify, provide for or approve, for and on behalf of
21 the County, such other matters in connection with the authorization, issuance, execution, sale,

1 delivery and payment of, and security for, the Conditional Purchase Agreement and the
2 consummation of the transactions contemplated by this Ordinance as may be deemed
3 appropriate and approved by the County Executive or the County Administrative Officer.

4 Subject to and in accordance with the provisions of this Ordinance, the County Executive or
5 County Administrative Officer shall determine by order the matters specified above.

6 SECTION 5. The Conditional Purchase Agreement shall be in substantially the form of
7 Exhibit A attached hereto, with such insertions, additions, deletions and amendments as the County
8 Executive or the County Administrative Officer shall approve, such officer's execution and delivery
9 of the Conditional Purchase Agreement to constitute conclusive evidence of such approval.

10 SECTION 6. In the event that the County shall enter into any Conditional Purchase
11 Agreement with the intent that the interest component of the purchase installments payable thereunder
12 be excludable from gross income for federal income tax purposes (the "Tax-Exempt C.P.A."), the
13 County Executive shall be the officer of the County responsible for the issuance of such Tax-Exempt
14 C.P.A. within the meaning of the Arbitrage Regulations (defined herein). The County Executive shall
15 also be the officer of the County responsible for the execution and delivery (on the date of issuance
16 of any Tax-Exempt C.P.A.) of a certificate of the County (the "Section 148 Certificate") which
17 complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended
18 ("Section 148"), and the applicable regulations
19 thereunder (the "Arbitrage Regulations"), and such official is hereby directed to execute the Section
20 148 Certificate and to deliver the same to bond counsel on the date of the issuance of any Tax-
21 Exempt C.P.A.

1 The County shall set forth in the Section 148 Certificate its reasonable expectations as to
2 relevant facts, estimates and circumstances relating to the use of the proceeds of such Tax-Exempt
3 C.P.A., or of any moneys, securities or other obligations to the credit of any account of the County
4 which may be deemed to be proceeds of such Tax-Exempt C.P.A. pursuant to Section 148 or the
5 Arbitrage Regulations (collectively, "Bond Proceeds"). The County covenants that the facts,
6 estimates and circumstances set forth in the Section 148 Certificate will be based on the County's
7 reasonable expectations on the date of issuance of such Tax-Exempt C.P.A. and will be, to the best
8 of the certifying officials' knowledge, true and correct as of that date.

9 The County covenants and agrees with each of the holders of any Tax-Exempt C.P.A. that
10 it will not make, or (to the extent that it exercises control or direction) permit to be made, any use
11 of the Bond Proceeds which would cause such Tax-Exempt C.P.A. to be "arbitrage bonds" within
12 the meaning of Section 148 and the Arbitrage Regulations. The County further covenants that it will
13 comply with Section 148 and the regulations thereunder which are applicable to such Tax-Exempt
14 C.P.A. on the date of issuance thereof and which may subsequently lawfully be made applicable to
15 such Tax-Exempt C.P.A.

16 The County further covenants that it shall make such use of the proceeds of Tax-Exempt
17 C.P.A., regulate the investment of the proceeds thereof, and take such other and further actions as
18 may be required to maintain the excludability from gross income for federal income tax purposes of
19 interest on the Tax-Exempt C.P.A., including (without limitation) payment of required rebate
20 amounts to the United States of America. All officers, employees and agents of the County are
21 hereby authorized and directed to take such actions, and to provide such certifications of facts and
22 estimates regarding the amount and use of the proceeds of Tax-Exempt C.P.A., as may be necessary

1 or appropriate from time to time to comply with, or to evidence the County's compliance with, the
2 covenants set forth in this Section, all as may be further specified in the order of the County Executive
3 or County Administrative Officer.

4 SECTION 7. In accordance with the provisions of Article IV, Section 402(d)(16) of the
5 County Charter, the County Executive is hereby authorized to delegate to the County Administrative
6 Officer the power and authority to take any and all actions required or permitted to be taken by the
7 County Executive pursuant to this Ordinance.

8 SECTION 8. The amount of Equipment authorized to be financed under the Resolution shall
9 decrease by the amount of Equipment financed in accordance with the authority under this Ordinance.
10 The amount authorized to be financed for Equipment under this Ordinance shall decrease by the
11 amount of Equipment financed in accordance with the authority under the Resolution.

12 SECTION 9. This Ordinance constitutes legislative action by the County Council pursuant
13 to Section 906 of the Charter and establishes the procedures to be followed in connection with the
14 acquisition of the Project and, in accordance with Section 502 of the Charter, to the extent provided
15 herein and only for the purposes of effectuating the transactions described in this Ordinance,
16 constitutes an assignment or reassignment of duties and functions described herein to the officials,
17 offices and departments herein directed or authorized to perform such duties or functions. In the
18 event that any provision of this Ordinance may be deemed to be inconsistent with any County Code
19 provision, ordinance, purchasing manual provision or regulation previously enacted or approved by
20 the County Council, this Ordinance shall be deemed to be controlling and to establish complete and
21 sufficient procedures with respect to the acquisition of the Project by means of execution and delivery

1 of the Conditional Purchase Agreement. No further approval of the Conditional Purchase Agreement
2 by the County Council shall be required.

3 SECTION 10. If any one or more of the provisions of this Ordinance, including any
4 covenants or agreements provided herein on the part of the County to be performed, should be
5 contrary to law, then such provision or provisions shall be null and void and shall in no way affect the
6 validity of the other provisions of this Ordinance.

7 SECTION 11. This Ordinance shall take effect 45 days from the date of its enactment.

EXHIBIT A

Form of Conditional Purchase Agreement

BALTIMORE COUNTY, MARYLAND
acting as Purchaser

and

[NAME], as Trustee
acting as Seller

CONDITIONAL PURCHASE AGREEMENT

Dated as of [DATE]

[DOLLAR AMOUNT]

BALTIMORE COUNTY, MARYLAND
CERTIFICATES OF PARTICIPATION
(Equipment Acquisition Program)
Series 20__

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CONDITIONAL PURCHASE AGREEMENT

THIS CONDITIONAL PURCHASE AGREEMENT dated as of [DATE] (the "Agreement"), and entered into between [NAME], as trustee under the Trust Agreement (defined below) acting as seller hereunder ("Seller"), and BALTIMORE COUNTY, MARYLAND, acting as purchaser hereunder ("Purchaser").

RECITALS

Purchaser desires to acquire the beneficial interests of Seller in and to the Equipment, as hereinafter defined, from Seller, subject to the terms and conditions of and for the purposes set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the premises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

ARTICLE I

COVENANTS OF PURCHASER AND SELLER

Section 1.01. Covenants of Purchaser. Purchaser represents, covenants and warrants for the benefit of Seller and its assignees as follows:

(a) Purchaser is a public body corporate and politic and a political subdivision duly organized and existing under the Constitution and laws of the State of Maryland and is authorized under the Constitution and laws of the State of Maryland to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) Purchaser has been duly authorized to execute and deliver this Agreement and further represents and covenants that all requirements have been met, actions have been taken and procedures have been followed in order to ensure the validity and enforceability of this Agreement.

(c) Purchaser has complied with applicable laws and regulations with respect to this Agreement and the acquisition of the Equipment hereunder.

(d) Purchaser shall cause to be executed an opinion of its counsel containing the substantive conclusions attached hereto as Exhibit B concurrently with the execution and delivery of the Certificates under the Trust Agreement.

(e) During the term of this Agreement, the Equipment will be used by Purchaser only for the purpose of performing one or more essential governmental

functions of Purchaser consistent with the permissible scope of Purchaser's authority and within the scope of authorized public purposes.

(f) The execution, delivery and performance of this Agreement and the transactions contemplated herein will not violate any judgment, order, law or regulation applicable to Purchaser or result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, bond, loan or credit agreement or other instrument to which Purchaser is a party or by which it is bound.

(g) There are no actions, suits or proceedings pending or, to the knowledge of Purchaser, threatened against, or affecting, Purchaser in any court or before any governmental commission, board or authority which, if adversely determined, will have a material adverse effect on the authority or ability of Purchaser to perform its obligations hereunder, or which question the legality, validity or enforceability hereof.

(h) Purchaser shall pay to the Trustee, from time to time, compensation for services rendered by the Trustee under the Trust Agreement, such compensation to be paid in accordance with the terms of the agreement dated [DATE] between the Trustee and Purchaser, to which terms Purchaser hereby agrees.

Section 1.02. Covenants of Seller. Seller represents, covenants and warrants for the benefit of Purchaser as follows:

(a) Seller is a duly organized and validly existing [ENTITY TYPE] in good standing and with full corporate power and authority to enter into this Agreement and to perform its obligations as Seller hereunder.

(b) During the term of this Agreement, Seller will preserve and keep in full force and effect its existence as a national banking association or shall do all things necessary to have all of its obligations hereunder assumed by its successors and permitted assigns, which shall preserve and keep in full force and effect their existence and their qualification to do business in the State of Maryland to the extent such qualification is necessary for the performance of Seller's obligations hereunder.

(c) Seller is authorized under its charter and by-laws and appropriate corporate resolutions to enter into this Agreement and the transactions contemplated hereby.

(d) The execution, delivery and performance of this Agreement and the transactions contemplated herein will not violate any judgment, order, law or regulation applicable to Seller or result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bond, loan or credit agreement or other instrument to which Seller is a party or by which it is bound.

ARTICLE II

DEFINITIONS

Section 2.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Acceptance Certificate" means the document, substantially in the form attached hereto as Exhibit C, which shall be provided to Seller as evidence of the date on which the Equipment has been finally accepted by Purchaser.

"Agreement" means this Conditional Purchase Agreement including the Exhibits attached hereto.

"Business Day" means a day other than a Saturday, Sunday, legal holiday or day on which banking institutions are authorized or required by law to be closed in the State of Maryland, the State of New York or in the state in which the principal office of the Trustee is located.

"Certificates" means the certificates of participation entitled "Baltimore County, Maryland Certificates of Participation (Equipment Acquisition Program), Series 20 ____" and any Additional Certificates (as defined in the Trust Agreement) issued under the Trust Agreement.

"Commencement Date" means the date when the Purchase Installments commence.

"County" means Baltimore County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland, which entity is purchasing the Equipment from Seller under the provisions of this Agreement.

"Equipment" means certain [SUMMARY DESCRIPTION OF EQUIPMENT], and other equipment and related property used in the general governmental programs of the County or in the operation of the Metropolitan District, all as described in Exhibit A, which property is the subject of this Agreement.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including reasonable attorney's fees) incurred in the collection of such claim or award.

"Purchase Installments" means the basic payments payable by Purchaser pursuant to the provisions of this Agreement during the Term which are payable in consideration of the right of Purchaser to use the Equipment during the then current portion of the Term and by which Purchaser acquires interests in ownership of the Equipment. Purchase Installments shall be payable by Purchaser to Seller or its assignee in the amounts and at the times during the Term set forth in Exhibit D in this Agreement.

"Purchase Price" means the amount so characterized as the price to acquire the Equipment outright on a payment date for Purchase Installments as set forth in Exhibit D to this Agreement and shall (with respect to any prepayment) be equal to the then outstanding principal balance of the total purchase price due with respect to the Equipment.

"Purchaser" means Baltimore County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland, which entity is purchasing the Equipment from Seller under the provisions of this Agreement.

"Seller" means (i) [NAME], as Trustee, a national banking association, acting as Seller hereunder; and (ii) except where the context requires otherwise, any assignee(s) of Seller.

"Term" means the term provided for in this Agreement under Section 4.01.

"Termination Date" means the date set forth in Exhibit D hereto at which time all Purchase Installments are required to have been paid in full.

"Trust Agreement" means the Trust Agreement dated as of the date hereof by and between the Trustee and Purchaser.

"Trustee" means [NAME], a [ENTITY DESCRIPTION], and its successor or successors and any other corporation which at any time may be substituted in its place pursuant to the Trust Agreement.

Section 2.02. Rules of Construction. Unless the context shall otherwise indicate, words importing the singular number include the plural number and vice versa, and words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

ARTICLE III

PURCHASE OF EQUIPMENT

Section 3.01. Purchase. Seller hereby agrees to grant and reconvey to Purchaser its interests in the Equipment in accordance with the provisions of this Agreement and, subject to payment of Purchase Installments, permit Purchaser the right to have and to hold the Equipment for the Term.

Section 3.02. Possession. Purchaser shall be entitled to possession and use of and title to the Equipment upon execution and delivery of this Agreement in accordance with the terms hereof.

ARTICLE IV

TERM

Section 4.01. Term of Agreement. This Agreement shall be in effect beginning on the date hereof and shall remain in effect until Purchaser has paid the Purchase Price to Seller and Seller has delivered a release and quitclaim of all its rights, title and interest in the Equipment to Purchaser. This Agreement is subject to earlier termination as set forth in Section 4.02 below, and, if such termination occurs prior to the full payment of the Purchase Price of the Equipment, Purchaser shall have no right to receive any refund of any Purchase Installments made by Purchaser.

Section 4.02. Termination of Term. The Term will terminate upon the earliest of any of the following events:

- (a) the termination of this Agreement in the event of nonappropriation of funds pursuant to Section 6.06;
- (b) the obtaining by Purchaser of full ownership rights to the Equipment granted under the provisions of Article IX or Article XI of this Agreement;
- (c) a default by Purchaser and Seller's election to terminate this Agreement under Article XIII; or
- (d) the payment by Purchaser of all Purchase Installments required to be paid by Purchaser hereunder and any other sums required to be paid hereunder and the delivery of a release of lien on the Equipment from Seller to Purchaser.

ARTICLE V

ENJOYMENT OF EQUIPMENT

Section 5.01. Quiet Enjoyment. Seller hereby covenants to provide Purchaser throughout the Term with quiet use and enjoyment of the Equipment, and Purchaser shall peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Seller, except as expressly set forth in this Agreement and so long as Purchaser is not in default hereunder. During the Term, all costs associated with the Equipment shall be borne by the Purchaser on a "triple net" basis.

Section 5.02. Inspection by Seller. During the Term and upon written notice, Purchaser will allow Seller or its nominees to inspect the Equipment in order to protect its rights and exercise its right to protect its interest hereunder.

ARTICLE VI

PURCHASE INSTALLMENTS

Section 6.01. Payment of Purchase Installments. (a) Purchaser shall make Purchase Installments in accordance with this Agreement.

(b) Purchaser shall pay all Purchase Installments from appropriated funds. All Purchase Installments shall be payable in lawful money of the United States of America to Seller at the address listed in Section 14.01 or, in the event of assignment by Seller, to its assignee at the location specified in the assignment, in the amounts and at the times as set forth on Exhibit D hereto.

Section 6.02. Interest Component. A portion of each Purchase Installment is paid as, and represents payment of, interest and Exhibit D hereto sets forth the interest component of each Purchase Installment during the Term.

Section 6.03. Purchase Installments to be Unconditional. The obligation of Purchaser to make payment of the Purchase Installments required under this Article VI and other sections hereof and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events except as expressly provided in this Agreement. Notwithstanding any dispute between Purchaser and Seller or any other person, or any defects, breakdowns or malfunctions in any portion of the Equipment, Purchaser shall make all payments of Purchase Installments when due and shall not withhold any part of any Purchase Installments pending final resolution of such dispute or repair of the Equipment or any portion thereof nor shall Purchaser assert any right of set-off, cross-claim, recoupment, or counterclaim against its obligation to make such payments required under this Agreement. Purchaser's obligation to make Purchase Installments during the Term shall not be abated through accident or unforeseen circumstances.

Section 6.04. Continuation of Term by Purchaser. Purchaser agrees, subject to the provisions of Section 6.06, to pay the Purchase Installments due hereunder. Purchaser reasonably believes that funds of an amount sufficient to make all Purchase Installments during the Term will be available. The County Executive further agrees to do all things lawfully within the County Executive's power annually to request the appropriation of funds from which the Purchase Installments and payments for all necessary insurance and maintenance on the Equipment may be made, including (without limitation) the inclusion of such funds in the budget of the County to be submitted to the Baltimore County, Maryland County Council (the "County Council") and a request for

adequate funds to meet its annual obligations hereunder in full in its next fiscal year budget. Nothing in this Section 6.04 shall obligate the Baltimore County Council to make any appropriation.

Section 6.05. Nonsubstitution. Purchaser agrees, to the extent permitted by law and subject to applicable public policy, (i) not to terminate this Agreement under Section 6.06 in any fiscal year for which sufficient funds are appropriated for the payment of Purchase Installments due in that fiscal year for the acquisition, retention and/or operation of any portion of the Equipment, and (ii) the County Executive will use best efforts to obtain the authorization and appropriation of such funds, including, without limitation, the inclusion of such funds in the budget of the County to be submitted to the Baltimore County Council and a request for adequate funds to meet its obligations hereunder in full in its next fiscal year budget. Purchaser agrees to apply funds that are appropriated for the Equipment to the payment of its obligations hereunder. This Section shall not be construed so as to permit the County Executive to, and the County Executive shall not, by failing to comply with the provisions of Section 6.04 hereof, terminate this Agreement in order to acquire (through construction, purchase, lease or otherwise) any equipment that is similar to, functionally similar to or competitive with all or any portion of the Equipment from any other party or to allocate funds to perform indirectly essentially the same functions to the same extent for which any portion of the Equipment is intended.

Section 6.06. Nonappropriation. In the event sufficient funds shall not be appropriated for the payment of the Purchase Installments required to be paid under Exhibit D to continue the acquisition of the Seller's interest in the Equipment, Purchaser may terminate this Agreement at the end of the last fiscal year or earlier date for which an appropriation is available and Purchaser shall not be obligated to make payment of the Purchase Installments provided for in this Agreement beyond the last date for which an appropriation is available. Purchaser shall deliver written notice to Seller of such termination no later than seven (7) days after Purchaser has knowledge that an appropriation will not be available. The failure to give such notice shall not extend the Term beyond such fiscal year nor affect the termination of this Agreement pursuant to this Section 6.06. Upon termination of this Agreement for nonappropriation, the obligations of Purchaser requiring the expenditure of money will cease so long as all payments previously approved or appropriated have been made, and all title and interest of Purchaser in the Equipment will terminate and be conveyed to Seller, who may thereupon take possession of the Equipment and may take such other actions as are permitted to be taken upon an Event of Default as provided in Section 13.02 hereof.

Section 6.07. Essential Use. Purchaser represents that the Equipment will be essential for the operations of Purchaser and in order to meet the needs of the residents of Baltimore County, Maryland and that Purchaser is in immediate need of the Equipment in order to meet such needs.

Section 6.08. Purchase Installments to Constitute a Current Expense of Purchaser. Seller and Purchaser understand and intend that the obligation of Purchaser to pay Purchase Installments hereunder shall constitute a current expense of Purchaser and shall not in any way be construed to be a debt of Purchaser in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by Purchaser, nor shall anything contained herein constitute a pledge of the full faith and credit or of the general tax revenues, funds or moneys of Purchaser. Seller further acknowledges that all monetary obligations of Purchaser contained herein are subject to duly authorized appropriation by Purchaser.

ARTICLE VII

OWNERSHIP OF EQUIPMENT; SECURITY INTEREST

Section 7.01. Ownership of the Equipment. Ownership of the Equipment and any and all additions, accretions, repairs, replacements or modifications will vest in the Purchaser, subject to the terms of this Agreement, upon the acquisition thereof from the respective vendors thereof. In the event of default as set forth in Section 13.01 or nonappropriation as set forth in Section 6.06, Purchaser shall surrender possession of the Equipment to Seller or its assignee in the manner set forth in Section 6.06.

The Purchaser's rights of possession in the Equipment shall not limit, waive or prejudice any right or remedy available to Seller pursuant to Section 13.02 of this Agreement.

Section 7.02. Security Interest; Financing Statements. To secure the payment of all of Purchaser's obligations under this Agreement, Purchaser hereby grants to Seller a first priority security interest in and to the Equipment. Purchaser grants to Seller and agrees to provide further assurances with respect to a right of entry, access, ingress and egress to the Equipment to permit Seller to exercise its rights and obligations under this Agreement. Nothing herein shall permit Seller to sell the Equipment in violation of this Agreement. Purchaser agrees to execute any documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Seller, which Seller deems necessary or appropriate to give notice of Seller's interest in the Equipment and, upon assignment, the interest of any assignee of Seller in the Equipment.

Section 7.03. Liens. Purchaser shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrances or claim on or with respect to the Equipment or any interest therein, except the lien created pursuant to Section 7.02 hereof in favor of Seller. Purchaser shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same

shall arise at any time and shall notify Seller and the Trustee in writing of such mortgage, pledge, lien, charge, security interest, encumbrance or claim and the discharge thereof.

ARTICLE VIII

OPERATION AND MAINTENANCE; TAXES; INSURANCE; MODIFICATION

Section 8.01. Operation and Maintenance of Equipment by Purchaser. Purchaser shall cause proceeds of the Certificates, to the extent available, to be applied, pursuant to the provisions of the Trust Agreement, to the acquisition of the Equipment. Purchaser agrees that during the Term, Purchaser, at Purchaser's own cost and expense, will install, operate, maintain, preserve and keep the Equipment and every part and parcel thereof in good repair, working order and condition and that Purchaser, from time to time, will make or cause to be made all necessary and proper repairs, replacements and renewals necessary for the same. Seller shall have no responsibility under this Agreement in any of these matters or for the making of improvements or additions to the Equipment.

Section 8.02. Condition of the Equipment Upon Early Termination. If this Agreement is terminated prior to the Termination Date, either by reason of nonappropriation as provided in Section 6.06 or an Event of Default as provided in Section 13.01, Purchaser shall return possession of the Equipment to Seller in good and serviceable condition, together with all alterations, additions, or modifications thereto. If Purchaser, at the time of such termination, had begun to undertake any such alterations, additions, or modifications which will not be then completed (an "Unfinished Project"), Purchaser, at Purchaser's option and at Purchaser's sole cost, will either (a) cause the Equipment to be restored as promptly as reasonably possible to its condition prior to the commencement of such Unfinished Project, (b) complete, or cause to be completed, as promptly as reasonably possible, the work on the Unfinished Project to a point where the Equipment will be useable in an unrestricted fashion, or (c) forthwith deposit funds with Seller sufficient to complete the Unfinished Project as provided in clause (b) above to the extent such funds have been appropriated.

Section 8.03. Taxes, Other Governmental Charges and Utility Charges. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Purchaser and, therefore, that the Equipment will be exempt from all taxes presently assessed and levied with respect to real or personal property. In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Purchaser will pay during the Term, as the same respectively become due, subject to reasonable rights to defer and contest the applicability of any such charge (and as to which Seller agrees, upon reasonable notice from Purchaser, to join and assist, at no expense or liability to Seller), all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Equipment and any land, improvements, personal property or other property

acquired by Purchaser in substitution for, as a renewal or replacement of, or a modification, improvement, accretion, accessory or addition to the Equipment, or with respect to Purchaser's possession or use of the Equipment, together with any interest or penalty thereon, as well as all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment; provided that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, Purchaser shall be obligated to pay such installments as are accrued during such time as this Agreement is in effect.

Section 8.04. Insurance. Purchaser shall, during the Term, cause property insurance or self-insurance (by means of a self-insurance fund set aside and maintained for that purpose) to be carried and maintained with respect to the Equipment in the amounts customarily maintained for personal property of the nature of those comprising the Equipment including protection of the interests of the Seller and the Trustee and sufficient to protect Seller and the Trustee. All insurance proceeds from property losses shall be payable as hereinafter provided in this Agreement. Purchaser, on or before the expiration date of any coverage, shall furnish to Seller and the Trustee binders as evidence that such coverage is continuing throughout the Term at Seller's or Trustee's request. Purchaser may insure the Equipment under a blanket insurance policy or policies of self-insurance which covers not only the Equipment but other properties. Notwithstanding anything herein to the contrary, Purchaser shall at all times maintain property damage insurance or self-insurance in an amount equal to the greater of (i) the full replacement value of the Equipment and (ii) the principal amount of the Certificates at the time outstanding and interest thereon for the next succeeding 6-month period.

Any insurance coverage issued pursuant to this Section 8.04 shall be so written or endorsed as to make losses, if any, payable to Purchaser, Seller and the Trustee as their respective interests may appear under this Agreement. The Net Proceeds of the insurance required in this Section 8.04 shall be paid to the Trustee and applied as provided in Sections 9.01 and 9.02 hereof. The insurance coverage provided for in this Section 8.04 shall contain a provision to the effect that the insurer shall not cancel the policy or modify it materially or adversely to the interest of Seller and the Trustee without first giving written notice thereof to Seller and the Trustee at least 20 days in advance of such cancellation.

If Purchaser provides the insurance described herein through self-insurance, Purchaser shall deliver to Seller and the Trustee a letter certifying that such insurance is being provided by Purchaser and setting forth the coverage provided by such self-insurance, the mechanisms for making claims under such self-insurance and such other information as Seller may reasonably require. To the extent that Purchaser provides any portion of the insurance required hereunder under a program of self-insurance, Purchaser shall provide the Trustee each year with an independent actuarial review of such self-insurance program.

In the event Purchaser shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Equipment in good repair and operating condition, upon written notice to Purchaser, Seller may (but shall be under no obligation to) purchase the required property insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof. Purchaser agrees to pay all amounts so advanced therefor by Seller, which amounts shall be added to the Purchase Installment for the then current fiscal year of Purchaser, together with interest thereon at the rate of 10% per annum.

Section 8.05. Modifications. Purchaser may make any alterations, modifications or additions to the Equipment or any portion thereof as Purchaser deems appropriate and which are reasonably anticipated to improve the economic value thereof.

Section 8.06. Final Acceptance. When the acquisition of the Equipment has been completed, an authorized representative of Purchaser shall deliver promptly to Seller and to the Trustee an Acceptance Certificate to that effect. Such certificate shall state that Purchaser has fully inspected the Equipment, that the Equipment is in good condition and repair and that Purchaser is satisfied with and has accepted the Equipment. After receipt by the Trustee of such certificate, the Trustee shall apply promptly all proceeds of the Certificates remaining in the Equipment Fund created by the Trust Agreement not required to complete the acquisition of the Equipment in accordance with Section 5.01 of the Trust Agreement.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 9.01. Damage, Destruction and Condemnation. If prior to the termination of the Term (a) the Equipment or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof or the estate of Purchaser or Seller in the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Purchaser shall give notice of its intention to file an insurance claim and Seller will cause the Net Proceeds of any insurance claim or condemnation to be deposited in the Insurance and Condemnation Fund under the Trust Agreement. The Net Proceeds of any insurance, including the proceeds of any self-insurance fund but not including the proceeds of any public liability insurance, and of any condemnation award received on account of any damage, destruction or taking of the Equipment shall be made available to Purchaser upon its request to replace, repair, rebuild, restore or modify the Equipment pursuant to the requisition procedures set forth in Section 4.06 of the Trust Agreement. Pending such application, such proceeds may be invested by the Trustee in Qualified Investments (as defined in the Trust Agreement) that mature not later than such times as

shall be necessary to provide moneys when needed to pay such costs of repair or replacement.

Notwithstanding the foregoing, Purchaser shall notify the Trustee, within 60 days of the receipt by Purchaser of written notice from the Trustee that the Trustee has received insurance or condemnation proceeds, whether Purchaser intends to replace or repair the property in respect of which such proceeds were received, in which event Purchaser shall deposit with the Trustee the full amount of any insurance deductible. The Net Proceeds of any insurance, including the proceeds of any self-insurance fund or of any condemnation award but not including the proceeds of any public liability insurance, not applied to repairing or replacing damaged, destroyed or taken property, or in respect of which notice in writing by Purchaser of its intention to apply the same to the work of repairing or replacing the property damaged, destroyed or taken shall not have been given to the Trustee within six months of receipt of such proceeds by the Trustee, or which Purchaser shall at any time during such period have notified the Trustee are not to be so applied, shall forthwith be applied to the redemption of Certificates in the manner specified in the Trust Agreement.

Notwithstanding any provisions of this Agreement relating to the application of amounts in any fund under the Trust Agreement, upon or after the occurrence of an Event of Default under this Agreement or the Trust Agreement, the Trustee shall apply amounts in the various funds and accounts therein as provided in the Trust Agreement. Except as provided above, Purchaser shall not, however, be entitled to any diminution of the amounts payable under Article VI hereof.

Section 9.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, rebuilding, restoration or modification referred to in Section 9.01 hereof, Purchaser shall either (a) complete the work and pay any cost in excess of the amount of the Net Proceeds (Purchaser agrees that, if by reason of such insufficiency of the Net Proceeds, Purchaser shall make any payments pursuant to the provisions of this Section 9.02, Purchaser shall not be entitled to any reimbursement therefor from Seller or the Trustee nor shall Purchaser be entitled to any diminution of the amounts payable under Article VI hereof), or (b) if Purchaser is not in default hereunder, and the Trustee has received all compensation due and owing pursuant to Section 1.01(h) of this Agreement, pay to Seller the amount of the then applicable Purchase Price as set forth on Exhibit D, plus a pro rata allocation of interest, at the rate or rates utilized to establish the then unpaid Purchase Installments, from the prior due date of a Purchase Installment until the date of the payment, and, upon such payment, the Term shall terminate and title to the Equipment shall be conveyed by Seller to Purchaser as provided in Article XI of this Agreement. The amount of the Net Proceeds in excess of the then applicable Purchase Price, if any, may be retained by Purchaser.

ARTICLE X

DISCLAIMER OF WARRANTIES; NO CLAIMS AGAINST ASSIGNEE; USE OF EQUIPMENT

Section 10.01. Disclaimer of Warranties. (a) SELLER MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT OR ANY PORTION THEREOF, OR ANY OTHER WARRANTY WITH RESPECT THERETO AND, AS TO SELLER, PURCHASER PURCHASES THE EQUIPMENT AS IS. In no event shall Seller be liable for any loss or damage, including incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Purchaser's use of any item, goods, products or services provided for in this Agreement.

(b) Execution of the Acceptance Certificate shall constitute acknowledgment by (and as to (i), a representation of) Purchaser that: (i) Purchaser is satisfied that the Equipment is suitable for its purposes; and (ii) Seller has disclaimed any representation or warranty or covenant as set forth in Section 10.01(a) above.

Section 10.02. No Claims Against Assignee. The parties hereto contemplate that Seller will assign its interest in this Agreement to the Trustee pursuant to the Trust Agreement. Provided that Seller has complied with the provisions of Section 12.01(b), Purchaser shall not assert against any such assignee for value or any subsequent assignee any claim or defense, by set-off, counterclaim or otherwise, that it may now or hereafter have against Seller, including but not limited to breach of warranty, whether express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or use of the Equipment or any portion thereof or any other warranty with respect thereto. In no event will such assignee be liable for any loss or damage, including incidental, indirect, special or consequential damages, in connection with any of the duties or obligations of Seller under this Agreement or otherwise.

Section 10.03. Use of the Equipment. Purchaser will not use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement or contrary to any applicable insurance policy. Purchaser shall provide and obtain all permits and licenses, if any, necessary in the operation of the Equipment to the extent required by law. In addition, Purchaser agrees to comply in all respects (including, without limitation, with respect to the installation, use, maintenance and operation of each item of equipment) with all applicable laws and all orders, ordinances or regulations of any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment; provided, however, that Purchaser may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Seller

after consultation with experts in the field, materially adversely affect the estate of Seller in and to any portion of the Equipment or its interest or rights under this Agreement.

ARTICLE XI

CONSUMMATION OF PURCHASE

Section 11.01. Consummation of Purchase. At the request of Purchaser, Seller's interest in the Equipment will be transferred, conveyed and assigned to Purchaser and this Agreement and Seller's interest in the Equipment shall terminate:

(a) at the end of the Term, upon payment in full of all Purchase Installments due hereunder and all other sums required to be paid hereunder; or

(b) prior to the end of the Term, on any timely date for the payment of a Purchase Installment, upon payment by Purchaser of the then applicable Purchase Price in conjunction with the Purchase Installment then due and owing, including any applicable prepayment premium as provided in Section 11.02; or

(c) upon payment of the applicable Purchase Price and interest to Seller pursuant to Section 9.02.

Upon the occurrence of any of the above, Seller shall deliver to Purchaser a release and quitclaim of its rights in the Equipment.

Section 11.02. Prepayment. (a) Purchaser may prepay in full the remaining balance of the Purchase Price, without premium, at any time if the Net Proceeds from insurance received upon damage or destruction of the Equipment or from condemnation of the Equipment are insufficient to replace, repair, rebuild, restore or modify the Equipment and Purchaser determines not to use its own funds for such purpose.

(b) There shall be applied as a prepayment of the Purchase Price, at any time, after the damage, destruction or condemnation of the Equipment, any excess insurance or condemnation proceeds remaining after the replacement, repair, rebuilding, restoration or modification of the Equipment.

(c) Upon any partial prepayment of the Purchase Price, the Trustee, upon the written direction of the Purchaser, shall amend Exhibit D hereto to pay in such order of maturity as directed by the County the principal components of all remaining Purchase Installments and shall recalculate the amount of the interest component of each remaining Purchase Installment using the instructions set forth in Exhibit E.

ARTICLE XII

ASSIGNMENT, SUBLEASING AND INDEMNIFICATION

Section 12. 01. Assignment by Seller. (a) Seller may assign its interest in the Equipment and its rights hereunder, including but not limited to the right of Seller to receive payments hereunder, to one or more persons in connection with any financing of the Equipment or for any other lawful purpose.

(b) No assignment or reassignment of Seller's right, title or interest in this Agreement or the Equipment shall be effective unless and until Purchaser shall have received a duplicate original counterpart of the document by which the assignment or reassignment is made, disclosing the name and complete mailing address of each such assignee (provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of participation certificates in this Agreement, it shall thereafter be sufficient that a copy of the agency or trust agreement shall have been deposited with Purchaser until Purchaser shall have been advised that such agency or trust agreement is no longer in effect).

(c) Upon receipt of the notice described above, Purchaser agrees to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach of this Agreement or otherwise) that Purchaser may from time to time have against Seller, or the assignee, and shall, if so requested, acknowledge the assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective. Purchaser agrees to execute all documents, including, but not limited to, notices of assignment, security agreements, chattel mortgages and financing statements which may be reasonably requested by Seller or its assignee to protect their interests in the Equipment and under this Agreement. Seller agrees that any assignment shall include a designation of a single assignee or trustee or paying agent who will act as the recipient of Purchase Installments and be solely responsible for further distribution, if any, of moneys to other assignees.

Section 12.02. Assignment and Subleasing by Purchaser. This Agreement and the interest of Purchaser in the Equipment may not be sold, leased, pledged, assigned or otherwise encumbered by Purchaser for any reason without the prior written approval of Seller, which approval shall be granted if Seller reasonably determines that Seller's security in the Equipment will not be adversely affected. Purchaser shall use the Equipment for public purposes and in furtherance of its essential governmental functions, but such restriction shall not preclude Purchaser from permitting the use of the Equipment by others for public purposes or in furtherance of any essential governmental functions of Purchaser.

Section 12.03. Release and Indemnification. Except to the extent caused by the negligence or willful misconduct of Seller, Purchaser shall, to the extent permitted by applicable law, indemnify, protect, save and hold harmless Seller from and against any and all liability, obligations, losses, claims and damages whatsoever resulting or allegedly resulting in damage to property or injury or death to any person regardless of the cause thereof, and expenses in connection therewith, including, without limitation, expenses, penalties and interest arising out of or as the result of Purchaser's use and possession of the Equipment, the acquisition of the Equipment, or any accident in connection with the operation, use, condition or possession of the Equipment, and any costs incurred in connection with the exercise of remedies hereunder. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Term for any reason, but only as to matters arising prior to the date of such termination.

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES

Section 13.01. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the terms "Event of Default" and "Default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by Purchaser (i) to pay any Purchase Installment at the time specified herein; or (ii) to pay any other payment required to be paid hereunder (other than any Purchase Installments and those payments to the Trustee provided for in Section 1.01(h) hereof), at the time specified herein and expiration of a grace period of fifteen (15) days; however, payments required by Section 8.03 shall be subject to Purchaser's rights as set forth therein to defer and contest; or (iii) to observe and perform its obligations referred to in Sections 8.01, 9.01, 9.02 and those regarding insurance or self-insurance for casualty and property damage referred to in Section 8.04; or

(b) Failure by Purchaser to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 13.01(a), for a period of 30 days after written notice to Purchaser by Seller, specifying such failure and requesting that it be remedied, unless Seller shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated on the notice cannot be corrected within the applicable period, Seller will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Purchaser within the applicable period and diligently pursued until the default is corrected; or

(c) Any representation or warranty contained herein or any document, certificate or information furnished by Purchaser in connection herewith shall prove to be untrue or incorrect in any material respect when made; or

(d) Purchaser files any proceeding under the Federal Bankruptcy Code or makes a general assignment for the benefit of creditors or institutes or consents to the filing of any proceeding for any receivership under any other bankruptcy or insolvency laws.

The foregoing provisions of this Section 13.01 are subject to the provisions of Section 6.06 of this Agreement.

Section 13.02. Remedies on Default. Whenever any event of default referred to in Section 13.01 shall have happened and be continuing, Seller shall have all the rights and remedies of a secured party under the Uniform Commercial Code in effect in Maryland, and without limiting the generality of the foregoing, Seller shall have the right, at its sole option, without any further demand or notice, to terminate this Agreement and take any one or any combination of the following remedial steps:

(a) Terminate this Agreement and retake possession of all or any portion of the Equipment, without any court order or other process of law and without liability for entering the premises, and lease, sublease or make other disposition of the Equipment for use over a term in a commercially reasonable manner, holding Purchaser liable for the deficiency, if any, between (i) the amount actually appropriated for the purchase of the Equipment and unpaid by Purchaser during the current fiscal year and which is therefore payable by Purchaser hereunder to the end of the current fiscal year of Purchaser and (ii) the rent or other amounts paid by a lessee or sublessee of the Equipment pursuant to such lease or sublease, after deducting all Seller's costs and expenses, including reasonable attorneys' fees and expenses, incurred with respect to the recovery, repair and storage of any portion of the Equipment.

(b) Terminate this Agreement and retake possession of all or any portion of the Equipment, without any court order or other process of law and without liability for entering the premises, and sell all or any portion of the Equipment in a commercially reasonable manner. Purchaser shall be liable for the deficiency, if any, between (i) the amount actually appropriated for the purchase of the Equipment and unpaid by Purchaser during the current fiscal year and which is therefore payable by Purchaser hereunder to the end of the current fiscal year of Purchaser, and (ii) the sale proceeds or purchase moneys or other amounts paid to Seller by a buyer of the Equipment pursuant to such sale of the Equipment in a commercially reasonable manner, after deducting all of the Seller's costs and expenses, including reasonable attorneys' fees and expenses, incurred with respect to the recovery, repair and storage of any portion of the Equipment. In the event there is no deficiency, Seller shall apply the sale proceeds or purchase moneys or other amounts paid by a buyer for the Equipment in the following manner:

FIRST, to pay all proper and reasonable costs and expenses associated with the recovery, repair, storage and sale of all or any portion of the Equipment;

SECOND, to pay Seller (i) the amount of all unpaid Purchase Installments, if any, which are then due and owing, together with interest at the rate utilized to establish the interest component for any such Purchase Installment from its due date, and (ii) the then applicable Purchase Price as set forth on Exhibit D (taking into account the payment of past due Purchase Installments as aforesaid), plus a pro rata allocation of interest, at the rate utilized to establish the interest component for the Purchase Installment next due, from the next preceding due date of a Purchase Installment until the date of payment by the buyer;

THIRD, to pay any compensation due and owing the Trustee pursuant to Section 1.01(h) hereof; and

FOURTH, to pay the remainder of the sale proceeds, purchase moneys or other amounts paid by a buyer of the Equipment to Purchaser.

Whenever an event of default referred to in clauses (a)(iii), (b), (c) or (d) of Section 13.01 of this Agreement shall have occurred and be continuing, Seller shall have the right, at its sole option, without further demand or notice, to institute appropriate legal proceedings to require Purchaser to cure any such Event of Default by observing, complying with or performing its obligations hereunder.

Section 13.03. No Remedy Waived. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Seller to exercise any remedy reserved to it in this Article XIII, it shall not be required to give any notice other than such notice as may be required in this Agreement.

Section 13.04. No Remedy Exclusive. The remedies provided herein are not intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the following addresses:

(a) if to Purchaser: Director of Budget and Finance
Baltimore County
400 Washington Avenue
Towson, Maryland 21204
Facsimile:

(b) if to Seller: [NAME/ADDRESS]

and To any assignee, notice of whom
has been provided as provided
in Section 12.01 hereof

Section 14.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Seller and Purchaser and their respective successors and assigns.

Section 14.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision hereof, and provided if any provision with respect to payment or the rights of Seller to reclaim and use the Equipment as permitted hereunder shall be held invalid or unenforceable, Seller shall have the right to terminate this Agreement effective as of the end of the then current fiscal year and, as of such date, to exercise all of its remedies upon the occurrence of an Event of Default.

Section 14.04. Amendments, Changes and Modifications. This Agreement may only be amended by written agreement of Seller and Purchaser.

Section 14.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14.06. Applicable Law and Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, excluding the conflict-of-law rules of the State of Maryland. All judicial actions, claims, suits or proceedings brought by any party to enforce any rights hereunder shall be initiated and maintained only in the courts of the State of Maryland and not in the courts of any other jurisdiction.

Section 14.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 14.08. Estoppel Certificates. Purchaser will, from time to time, upon 20 days' prior request by Seller, execute, acknowledge and deliver to Seller a certificate executed by a duly authorized official, stating that (a) this Agreement is unmodified (or if modified, reciting the modifications) and in full effect, (b) the dates to which Purchase Installments have been paid, and (c) to the knowledge of the signer of the certificate, no default exists under this Agreement (or stating each default of which the signer has knowledge). Any such certificate may be relied upon by an assignee of Seller.

Section 14.09. Waiver. No covenant or condition of this Agreement can be waived except by the written consent of the party in whose favor such covenant or condition runs. Any failure of such party to require strict performance by the other or any waiver by the party benefited of any terms, covenants or agreements herein shall not be construed as a waiver of any other breach of the same or any other term, covenant or agreement herein.

Section 14.10. Entire Agreement. This Agreement, together with the exhibits and schedules attached hereto and other agreements referred to herein, constitutes the entire agreement between the parties.

Section 14.11. Time. Time is of the essence of this Agreement and each and all of its exhibits, schedules and provisions.

Section 14.12. Certificates to be Tax Exempt. Purchaser hereby covenants that, unless and until Purchaser has been advised by nationally recognized bond counsel that failure to comply will not cause interest on the Certificates to become subject to federal income taxation, Purchaser shall comply with the provisions of the Internal Revenue Code of 1986, as amended, applicable to the Certificates, including, without limitation, any provisions regulating or restricting the times within which, or the purposes for which, proceeds of the Certificates may be expended, any provisions restricting the yields that may be earned on the investment of proceeds of the Certificates or other funds relating to the Certificates, any provisions requiring the rebate to the United States of earnings received from the investment of proceeds of the Certificates or other funds relating to the Certificates, and any provisions requiring the filing of information or reports regarding the Certificates with the Internal Revenue Service.

Purchaser hereby further covenants that it shall make such use of the Equipment and of the proceeds of the Certificates, regulate the investment of the proceeds thereof, and take such other and further actions as may be required under the Internal Revenue Code of 1986, as amended, to maintain the exclusion from gross income for federal income tax purposes of interest on the Certificates (unless and until Purchaser has

been advised by nationally recognized bond counsel that failure to comply will not cause interest on the Certificates to become subject to federal income taxation).

All officers, employees and agents of Purchaser shall take such actions, provide such certifications of facts and estimates and enter into such further covenants and agreements regarding the application and investment of the proceeds of the Certificates as may be necessary or appropriate from time to time, in the opinion of nationally recognized bond counsel reasonably acceptable to Seller, to comply with, or to evidence Purchaser's compliance with, the covenants set forth above. Purchaser shall be permitted to enter into an agreement with the Trustee or other persons under which such persons assume responsibility for such actions as are necessary to comply with such covenants.

IN WITNESS WHEREOF, Seller and Purchaser, by their duly authorized officials, have executed and delivered this Agreement under seal as of the date and year first above written.

[SEAL]

SELLER:

[NAME],
as Trustee

ATTEST:

By: _____

[SEAL]

PURCHASER:

BALTIMORE COUNTY, MARYLAND:

ATTEST:

By: _____

County Executive

Secretary to the County Executive

Approved as to form and legal sufficiency
this ___ day of _____, 20__

By:

County Attorney

STATE OF MARYLAND
COUNTY OF BALTIMORE ss:

I HEREBY CERTIFY that, before me, a Notary Public of the State of Maryland and County of Baltimore, personally appeared [NAME], County Executive, known to me to be the person who signed the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

AS WITNESS my hand and notarial seal this ____ day of _____,
20__.

Notary Public

My Commission Expires:

STATE OF MARYLAND
COUNTY OF _____ ss:

On this the ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Maryland, personally appeared _____, who acknowledged being a _____ of [NAME], a duly organized and validly existing [ENTITY DESCRIPTION] having a corporate trust office in _____, _____, and, that as such officer, being authorized so to do, executed the foregoing Conditional Purchase Agreement for the purposes therein contained, by signing his or her name thereto as a [TITLE] of [NAME].

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this
____ day of _____, 20__.

Notary Public

My Commission Expires:

SCHEDULE OF EXHIBITS

1. Exhibit A - Description of Equipment
2. Exhibit B - Purchaser's Counsel Opinion
3. Exhibit C - Acceptance Certificate
4. Exhibit D - Schedule of Payments
5. Exhibit E - Interest Recalculation Instructions

EXHIBIT A

Description of Equipment

EXHIBIT B

(Letterhead of Counsel for Purchaser)

(a) The Conditional Purchase Agreement has been duly authorized, executed and delivered between the parties thereto and constitutes the valid and binding obligation of the Seller and the County.

(b) The Trust Agreement has been duly authorized, executed and delivered among the parties thereto and constitutes the valid and binding obligation of the County, the Seller and the Trustee.

(c) The Certificates have been duly authorized, executed and delivered as set forth in the Trust Agreement, are validly issued, and represent proportionate interests in the Purchase Installments.

(d) The Certificates and the Conditional Purchase Agreement shall not ever constitute a debt of the County within the meaning of any constitutional, statutory or charter limitation or a charge against the general credit or taxing power of the County. The Certificates are payable from the moneys and property pledged to their payment under the Trust Agreement, including the payments to be made by the County under the Conditional Purchase Agreement. The County has not pledged its full faith and credit or its taxing powers to the payment of the Purchase Installments. The obligation of the County to make payments under the Conditional Purchase Agreement is subject to annual appropriation as provided in the Conditional Purchase Agreement.

EXHIBIT C

ACCEPTANCE CERTIFICATE

The undersigned, as Purchaser under the Conditional Purchase Agreement dated as of [DATE], hereby accepts the Equipment described with particularity in the Conditional Purchase Agreement this ____ day of _____, 20__.

Purchaser hereby certifies as follows with regard to the Equipment:

- (A) Purchaser has inspected the Equipment;
- (B) Except as noted below, the Equipment is in good condition and repair.

Exceptions to item B:

BALTIMORE COUNTY, MARYLAND,
as Purchaser

By: _____
Project Manager

Approved:

By: _____
Director of Budget and Finance

Acknowledged:
[NAME]

By: _____

EXHIBIT D

SCHEDULE OF PAYMENTS

Purchaser: Baltimore County, Maryland

Date of Agreement: [DATE]

<u>Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Principal and Interest</u>	<u>Purchase Price*</u>
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* After payment of the Principal Component of the Purchase Price (if any) due on such date.

a) Due Dates. Payments of the Principal Portion and Interest Portion of the Purchase Installments are due and payable on the third Business Day prior to each [DATE] and [DATE] of any year and shall be paid by Purchaser in immediately available funds on such third Business Day prior to each [DATE] and [DATE].

(b) Corresponding Payments. Payments of the Principal Portion and Interest Portions of the Purchase Installments by Purchaser shall correspond with the payments of principal and interest which from time to time are required to be made on the Certificates by the Trustee under the Trust Agreement taking into account any reduction to debt service, for example, resulting from the redemption of Certificates prior to their maturity. Such payments by Purchaser shall be reduced by amounts held by the Trustee and made available pursuant to the Trust Agreement for corresponding payments to be made on the Certificates.

(c) Defeasance. (i) If sufficient money for the payment of the principal or redemption price of and interest on all Certificates Outstanding (as defined in the Trust Agreement) shall be held by Trustee (through deposit by Purchaser of moneys for such payment or otherwise, regardless of the source of such moneys), whether at or prior to the maturity or the redemption dates of such Certificates, or (ii) if the maturity or redemption dates of such Certificates shall not then have arrived, and provision shall have been made for the payment of the interest on Certificates on the due dates for such payments, by

deposit with Trustee (or other method satisfactory to Trustee) of Government obligations (as defined in the Trust Agreement) the principal of and the interest on which when due will provide sufficient moneys for such payments, then the obligations of Purchaser to pay the principal and interest portions of the Purchase Installments due under the Purchase Agreement shall be discharged and satisfied.

EXHIBIT E

INTEREST RECALCULATION INSTRUCTIONS

Pursuant to Section 11.02(c) hereof, upon any partial prepayment of the Purchase Price, the interest component on each remaining Purchase Installment as specified on Exhibit D hereof shall be reduced by the aggregate amount which results from multiplying the principal amount of each Purchase Installment prepaid by a fraction, the numerator of which is an interest rate applicable to the Certificates having a maturity date (as set forth in Section 7.01 of the Trust Agreement) that corresponds to the maturity date of such prepaid Purchase Installment and the denominator of which is two. Exhibit D shall be amended by the Trustee to reflect the reduced interest payments.